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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,977	09/10/2003	Jack C. Wybenga	2003.09.014.BN0	1863
23990	7590	02/04/2009	EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	10/658,977	WYBENGA ET AL.	
	Examiner	Art Unit	
	Brian R. Peugh	2187	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 October 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6. The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. Other (including any explanation in support of the above items):

See Continuation Sheet.

/Brian R. Peugh/
Primary Examiner, Art Unit 2187

Continuation of 10. Other (including any explanation in support of the above items): Pages 8-10 of Applicant's Appeal Brief does not contain concise explanations of the independent claims in reference to the Specification. For example Applicant has cited numerous pages (page 4, line 19 - page 6, line 17; page 9, line 9 - page 14, line 8) as providing support for the limitations of claim 1. This is in reference to Applicant's argument of page 8 referencing the Examiner's statement for support of the Defective Appeal Brief Action. The Examiner agrees with the Applicant in that there is no limit on how much of the Specification may be referenced, as long as the references to the Specification for the Summary of Claimed Subject Matter is done in a concise fashion. Specifically, the above cited reference to page 4, line 19 - page 6, line 17, page 9, line 9 - page 14, line 8, and Figures 1-3 appear to coincide with the explanation for support for claim 1, however they appear as a separate sentence after the last supporting reference to the last claim limitation. It is unclear whether this separate sentence, in the form of Specification references, is meant to support a specific claim limitation or the claim as a whole. Therefore for at least this non-concise inclusion of numerous Specification references not specifically attributed to an individual claim limitation, the Examiner maintains that the Appeal Brief is defective. .